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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------------|-------------|----------------------|---------------------|------------------|
| 10/663,493 | 09/16/2003 | Joseph P. Errico | F-289 | 2440 |
| 51640 7590 12/02/2008 | | | | |
| SPINE MP | | | | |
| LERNER, DAVID, et al. | | | | |
| 600 SOUTH AVENUE WEST | | | | |
| WESTFIELD, NJ 07090 | | | | |
| EXAMINER | | | | |
| PELLEGRINO, BRIAN E | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 3738 | | | | |
| MAIL DATE | | DELIVERY MODE | | |
| 12/02/2008 | | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Interview Summary

Application No.

10/663,493

Applicant(s)

ERRICO ET AL.

Examiner

Brian E. Pellegrino

Art Unit

3738

All participants (applicant, applicant's representative, PTO personnel):

(1) Brian E. Pellegrino.

(3) _____.

(2) William DiBianca.

(4) _____.

Date of Interview: 26 November 2008.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal (copy given to: 1) ☐ applicant 2) ☐ applicant's representative)

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: _____.

Claim(s) discussed: 1 and 22.

Identification of prior art discussed: Fraser '800, Buttner-Janz '269, McGahan (WO 01/62191).

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: We discussed interpretation of the prior art rejections of record and also interpretation of the claim language. The Examiner suggested to further define the spacer element of the tool to define how the lordotically angling is accomplished. Applicant's representative stated there was limitations in the claim, but the Examiner stated it was broad in how it can be interpreted.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

/Brian E Pellegrino/
Primary Examiner, Art Unit 3738